

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Walter E. Myrick

v.

Civil No. 05-cv-450-JD

State of New Hampshire

O R D E R

Pro se plaintiff Walter E. Myrick brings this civil rights action, pursuant to 42 U.S.C. § 1983, alleging that defendant has violated his Eighth Amendment rights by incarcerating him under conditions that posed a substantial risk of serious harm and causing him to be exposed to and contract Hepatitis B (document no. 1). Construed liberally, the complaint names as the defendant Bruce Cattell in his representative capacity as Warden of the New Hampshire State Prison ("NHSP").

The complaint is before me for preliminary review to determine whether, among other things, it states a claim upon which relief may be granted. See 28 U.S.C. § 1915A; U.S. District Court for the District of New Hampshire Local Rule ("LR") 4.3(d)(2). For the reasons stated in the Report and Recommendation issued simultaneously herewith, I find that Myrick

has alleged an Eighth Amendment claim against Cattell, arising from Myrick's unsafe conditions of confinement and exposure to Hepatitis B.

As I find that plaintiff has stated a claim upon which relief may be granted, I order the complaint served on the defendant. The Clerk's office is directed to serve the New Hampshire Office of the Attorney General (AG), as provided in the Agreement On Acceptance Of Service, copies of the complaint, this order and report and recommendation (document no. 1). See LR 4.3(d)(2)(C). Within thirty days from receipt of these materials, the AG will submit to the court an Acceptance of Service notice specifying those defendants who have authorized the AG's office to receive service on their behalf. When the Acceptance of Service is filed, service will be deemed made on the last day of the thirty-day period.

If defendant does not authorize the AG's office to receive service on his behalf or if the AG declines to represent him, the AG shall, within thirty days from receipt of the aforementioned materials, provide a separate list of the last known address of the defendant. The Clerk's office is instructed to complete service on this individual by sending to him, by certified mail, return receipt requested, copies of these same documents.

The defendant is instructed to answer or otherwise plead within thirty days of acceptance of service. See Fed. R. Civ. P. 12(a)(1)(A).

Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on the defendant by delivering or mailing the materials to him or his attorney, pursuant to Fed. R. Civ. P. 5(b).

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: April 27, 2006

cc: Walter E. Myrick, *pro se*